

DETAILED ACTION

This action is in response to Amendment filed 1/19/2010. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 19, 2010 has been entered.

Response to Amendment

2. Applicant's amendment filed on January 19, 2010 has been entered. Claims 1, 17, 18, 52, 68, 69, 103, 104, 106, 107, 109, 110, and 113 have been amended. No claims have been added. Claims 1-14, 17-31, 33 - 34, 36-39, 52- 65, 68 - 82, 84 - 85, 87 - 90, 103- 104, 106 - 107, 109 - 110, 112, 113, and 115- 128 are still pending in this application.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 106 and 107 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. According to the broadest reasonable interpretation of

the claims and in light of the specification, the “computer readable medium” disclosed in claims 106 and 107 can be construed to include both transitory and non-transitory embodiments, per se 1351 OG 212, MPEP 2111.01, In re. Nuitjen, 500 F.3d 1346, 1356- 57 Fed. Cir. 2007. To comply with 35 U.S.C. 101, applicant may amend the claim to narrow the claims to cover only statutory embodiments by adding the limitation -- non- transitory -- to the claim, i.e. a non-transitory computer readable medium.

Claim Rejections - 35 USC § 103

4. Claims 1 - 14, 52 - 65, 103, 106, 109, 112, 115, 118, 123 – 125 and 127 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berkley et al. (US 6,546,005) in view of Parsons et al. (US 2002/0085701).

For claims 1, 52, 103, 106, 109, and 112, Berkley et al. discloses a method, an apparatus with means for , a computer-readable medium, and system for routing a communication to a preferred device (Abstract; column 5 lines 11 – 25; column 6 lines 50 – column 7 line 8), comprising: a voice network (column 5 lines 62 – column 6 line 15); a data network (column 5 lines 62 – column 6 line 15); and a service center operable to receive a communication from a calling party to a device associated with a particular user being contacted by the calling party (*Active User Registry system*, Fig.1, 170, column 5 lines 11 - 60; column 10 lines 20 – 25, lines 53 - 59); access information pertaining to the communication (column 10 lines 25 – 36); retrieve data corresponding to the user being contacted by the calling party using the information pertaining to the communication (column 6 lines 50 – column 7 lines 51; column 9 lines 10 – column 10 lines 4, 25 - 40, 59- column 11 line 4); determine a preferred device of the user being

contacted by the calling party based on the retrieved data, wherein the preferred device is one of a plurality of devices associated with the user (column 10 lines 36 - 45, 65 - column 11 line 4); and, determine whether the preferred device of the user being contacted by the calling party requires a different data format than a device used by the calling party to initiate the communication (column 11 lines 55 – column 12 line 48). Yet, Berkley fails to teach sending contact information for the calling party to the preferred device of the user in the data of the preferred device, when the preferred device of the user requires a different data format than the device used by the calling party to initiate the communication.

However, Berkley et al. discloses a method for the purpose of routing a communications to a preferred device wherein contact information can be transmitted to endpoint, telephony device for the purpose of establishing a communication session (column 11 lines 18 – 40).

Moreover, Parsons et al. discloses a system, method, and apparatus for the purpose of routing a communication to a preferred device wherein contact information for a calling party is sent to a user's preferred device in the format of the preferred device when the data format required by the calling party and user's preferred terminal are different (*“call me” message can be appended with caller's phone number... if the user has configured a context such that no phone is immediately attempted for the incoming call, processing advances to block 914 where the list of remaining options for the incoming call is examined to determine whether any of the devices is unavailable... and the edited list of available options is played to the incoming caller via an IVR.. these options include sending a text message , Abstract; [0029 – 0030] [0041][0046 – 0049] [0087] [0088 - 0091] [0099]).*

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Berkley et al. with the teachings of Parsons et al. so that the data format conversion process disclosed in Berkley et al. (column 12 lines 66 – column 13 line 16) appends contact information to text messages that have been converted from voice messages for the purpose of enabling the user to contact the calling party in the device format of the calling party, i.e. when the only, available device for a calling party is a text receiving device.

For claims 2 and 53, Berkley et al. further discloses wherein retrieving data comprises: accessing a database for call preference information corresponding to the user (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4).

For claims 3 and 54, Berkley et al. further discloses wherein the call preference information comprises an indication of a device to which communications should be forwarded (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4).

For claims 4 and 55, Berkley et al. further discloses wherein determining a preferred device comprises: specifying the preferred device to be a device indicated in the call preference information (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4).

For claims 5 and 56, Berkley et al. further discloses wherein determining a preferred device comprises: specifying the preferred device to be a predetermined default device (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4).

For claims 6 and 57, Davis et al. further discloses wherein determining a preferred device comprises: specifying the preferred device to be a device last used by the user (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4).

For claims 7 and 58, Berkley et al. further discloses wherein determining a preferred device comprises: specifying the preferred device based on information reflecting a time period during which a particular device is the preferred device (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4).

For claims 8-9 and 59 – 60, Berkley et al. further discloses routing the communication to the preferred to the voice mail based on a determination that the user is associated with a do not disturb mode (Berkley et al., column 9 lines 63 - column 10 line 16).

For claims 10 and 61, Berkley et al. further discloses routing the communication to the preferred device without reformatting the communication if the preferred device does not require a different data format (Berkley et al., column 10 lines 32 – 43).

For claims 11 and 62, Berkley et al. further discloses the data format of the device of the calling party comprises voice data and the data format of the preferred device of the user comprises text data, or vice versa (Berkley et al., column 12 lines 66 – column 13 line 16).

For claims 12 and 63, Berkley et al. further discloses sending a request for the data format of the device used by the calling party (Berkley et al., *the AUR responds by presenting an access menu to the subscriber, column 10 lines 20 -36.*

For claims 13 and 64, Berkley et al. further discloses providing the device associated with the calling party with a graphical interface for use in entering the communication (Berkley et al., column 10 lines 20 -36).

For claims 14 and 65, Berkley et al. further discloses wherein reformatting the communication comprises: automatically converting incoming data associated with the communication to new incoming data with the data format of the preferred device of the user (Berkley et al., column 12 lines 36 – column 13 line 16).

For claims 115 and 118, Berkley et al. further discloses wherein determining a preferred device comprises: specifying the preferred device based on information reflecting the user's location (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4).

For claims 123 and 124, Berkley et al. further discloses wherein receiving a communication comprises: detecting the communication from the calling party; and intercepting the communication upon detecting an intercept trigger associated with the communication (Berkley et al., dialing a telephone number corresponding to the AUR system, column 10 lines 53 – 59).

For claims 125 and 127, Berkley et al. further discloses wherein sending a request comprises: presenting an appropriate overlay to communicate with the preferred device of the user (Berkley et al., column 12 lines 36 – column 13 line 16).

5. Claims 17 – 24, 33 - 34, 36 - 39, 68 – 75, 84 – 85, 87- 90, 104, 107, 110, 113, 116, and 119, 126, and 128 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Berkley et al. (US 6,546,005) in view of Gudjonsson et al. (US 6,564,261).

For claims 17, 68, 104, 107, 110, and 113, Berkley et al. discloses a method, an apparatus, a computer-readable medium, and system for routing a communication to a preferred

device (Abstract; column 4 lines 54 – column 5 line 18), comprising: a voice network (column 5 lines 62 – column 6 line 15); a data network (column 5 lines 62 – column 6 line 15); and a service center operable to receive information pertaining to a communication to the user from a calling party, the communication to the user being initiated by an action of the calling party on the data network (*Active User Registry system*, Fig.1, 170, column 5 lines 11 - 60; column 10 lines 20 – 25, lines 53 – 59; column 11 lines 18 - 31); retrieve data corresponding to the user using the received information (column 6 lines 50 – column 7 lines 51; column 9 lines 10 – column 10 lines 4, 25 - 40, 59- column 11 line 4); determine a preferred device of the user based on the retrieved data, wherein the preferred device is one of a plurality of devices associated with the user (column 10 lines 36 - 45, 65 - column 11 line 4); determine whether the preferred device of the user requires a different data format than a device used by the calling party to initiate the communication (column 11 lines 55 – column 12 line 48); and route the communication to the preferred device of the user, when the preferred device of the user accepts the data format of the device used by the calling party to initiate the communication (column 12 lines 18 – 35). Yet, Berkley et al. fails to teach sending information to the calling party indicating that the calling party should contact the user at the preferred device, when the preferred device of the user requires a different data format than the device used by the calling party to initiate the communication.

However, Gudjonsson et al. discloses a system and method for the purpose of establishing communication sessions between users over various networks wherein information is sent to the calling party indicating that the calling party should contact the user at the preferred

device of the user, when the preferred device requires a different data format that the device used by the calling party to initiate the communication (Abstract; column 25 lines 43 – 63).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Berkley et al. with the teachings of Gudjonsson et al. so the information which is transmitted (Berkley et al., column 12 lines 50 – 55) comprises contact information for the purpose of indicating to the calling party that they should contact the user at the preferred device of the user, when the preferred device of the user requires a different data format than the device used by the calling party.

For claims 18 and 69, Berkley et al. further discloses wherein the action comprises clicking on a hyperlink (Berkley et al., column 11 lines 28 – 31).

For claims 19 and 70, Berkley et al. further discloses wherein retrieving data comprises: accessing a database for call preference information corresponding to the user (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4).

For claims 20 and 71, Berkley et al. further discloses wherein the call preference information comprises an indication of a device to which communications should be forwarded (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4).

For claims 21 and 72, Berkley et al. further discloses wherein determining a preferred device comprises: specifying the preferred device to be a device indicated in the call preference information (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4).

For claims 22 and 73, Berkley et al. further discloses wherein determining a preferred device comprises: specifying the preferred device to be a predetermined default device (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4).

For claims 23 and 74, Berkley et al. further discloses wherein determining a preferred device comprises: specifying the preferred device to be a device last used by the user (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4).

For claims 24 and 75, Berkley et al. further discloses wherein determining a preferred device comprises: specifying the preferred device based on information reflecting a time period during which a particular device is the preferred device (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4).

For claims 33 - 34 and 84 - 85, Berkley et al. further discloses routing the communication to the preferred to the voice mail based on a determination that the user is associated with a do not disturb mode (Berkley et al., column 9 lines 63 - column 10 line 16).

For claims 36 and 87, Berkley et al. further discloses the data format of the device of the calling party comprises voice data and the data format of the preferred device of the user comprises text data, or vice versa (column 12 lines 66 – column 13 line 16).

For claims 37 and 88, Berkley et al. further discloses sending a request for the data format of the device used by the calling party (*the AUR responds by presenting an access menu to the subscriber*, column 10 lines 20 -36).

For claims 38 and 89, Berkley et al. further discloses providing the device associated with the calling party with a graphical interface to use in entering the communication (Berkley et al., column 10 lines 20 - 36).

For claims 39 and 90, Berkley et al. further discloses wherein reformatting the communication comprises: automatically converting incoming data associated with the communication to new incoming data with the data format of the preferred device of the user (Berkley et al., column 12 lines 36 – column 13 line 16).

For claims 116 and 119, Berkley et al. further discloses wherein determining a preferred device comprises: specifying the preferred device based on information reflecting the user's location (column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4).

For claims 126 and 128, Berkley et al. further discloses wherein sending a request comprises: presenting an appropriate overlay to communicate with the preferred device of the user (Berkley et al., column 12 lines 36 – column 13 line 16).

6. Claims 25-31, 76-82, 117, and 120-122 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berkley et al. (US 6,546,005) in view of Gudjonsson et al. (US 6,564,261), and further in view of Frey et al. (US 6,535,596).

For claims, 25-28 and 76-79, Berkley et al. fails to teach retrieving data corresponding to the calling party; and determining a preferred device of the calling party based on the retrieved data. However, Frey discloses a method for processing calls based on the calling party's profile wherein data corresponding to the calling party is retrieved from a database and preferences for the calling party are determined (Abstract; column 14 lines 13-26).

Therefore, it would have been obvious for one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Berkley et al with teachings of Frey to store

calling party preferences, i.e. preferred device in a database for the purpose of processing calls based on the calling party's profile.

For claims 29 and 80, the teachings of Berkley et al. and Frey further disclose specifying the preferred device of the calling party to be a predetermined default device (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4) (Frey, column 10 lines 20- 40).

For claims 30 and 81, the teachings of Berkley et al. and Frey further disclose specifying the preferred device of the calling party to be the device last used by the calling party (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4) (Frey, column 10 lines 20- 40).

For claims 31 and 82, Frey further discloses specifying the preferred device of the calling party based on information reflecting a time period during which a particular device is the preferred device of the calling party (Frey, column 11 lines 1-12).

For claims 117 and 120, the teachings of Berkley et al. and Frey further disclose wherein determining a preferred device comprises: specifying the preferred device based on information reflecting the user's location (Berkley et al., column 6 lines 50 – column 7 line 51; column 9 line 10 – column 10 line 4) (Frey, column 10 lines 20- 40).

For claims 121 – 122, Berkley et al. further discloses wherein the predetermined default device is the device used by the calling party to initiate the communications (Berkley et al., Berkley et al., column 10 lines 20 – 40, 57 - 65; column 12 lines 43 - 49).

Response to Arguments

7. Applicant's arguments with respect to the rejection of claims 1 – 14, 52- 65, 103, 105, 106, 109, 112, 115, 118, 123- 125, and 127 have been considered but are moot in view of the new ground(s) of rejection.
8. Applicant's arguments with respects to the rejection of claims 17 – 24, 33, 34, 36, 39, 68 – 75, 84, 85, 87 – 90, 104, 107, 110, 113, 116, 119, 126, and 128 in view of Berkley et al. have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SONIA GAY whose telephone number is (571)270-1951. The examiner can normally be reached on Monday to Thursday from 7:30 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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March 25, 2010

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